

19-6-118 Hazardous waste and treated hazardous waste disposal fees.

(1) As used in this section:

(a) "Demilitarization waste" means:

(i) a nerve, military, or chemical agent, including:

- (A) CX;
- (B) GA;
- (C) GB;
- (D) GD;
- (E) H;
- (F) HD;
- (G) HL;
- (H) HN-1;
- (I) HN-2;
- (J) HN-3;
- (K) HT;
- (L) L; or
- (M) VX; or

(ii) waste or residue from demilitarization, treatment, testing, or disposal of an agent described in Subsection (1)(a)(i).

(b) "Remediation project" means:

- (i) a superfund cleanup project;
- (ii) a Resource Conservation and Recovery Act closure or corrective action site; or
- (iii) a voluntary cleanup of:
 - (A) hazardous debris; or
 - (B) hazardous waste subject to regulation solely because of removal or remedial action taken in response to environmental contamination.

(c) "Remediation waste" means waste from a remediation project.

(2)

- (a) An owner or operator of any commercial hazardous waste or mixed waste disposal or treatment facility that primarily receives hazardous or mixed wastes generated by off-site sources not owned, controlled, or operated by the facility or site owner or operator, and that is subject to the requirements of Section 19-6-108, shall pay the fee under Subsection (3).
- (b) The owner or operator of each cement kiln, aggregate kiln, boiler, blender, or industrial furnace that receives for burning hazardous waste generated by off-site sources not owned, controlled, or operated by the owner or operator shall pay the fee under Subsection (3).

(3)

(a)

- (i) Through June 30, 2014, the owner or operator of each facility under Subsection (2) shall pay a fee of \$28 per ton on all hazardous waste and mixed waste received at the facility for disposal, treatment, or both.
- (ii) The fee required under Subsection (3)(a)(i) shall be calculated by multiplying the total tonnage of waste, computed to the first decimal place, received during the calendar month by \$28.

(b)

- (i) Through June 30, 2014, hazardous waste received at a land disposal facility is subject to a fee of \$14 per ton instead of the fee described in Subsection (3)(a) if the waste is treated so that it:
 - (A) meets the state treatment standards required for land disposal at the facility; or

- (B) is no longer a hazardous waste at the time of disposal at that facility.
- (ii) Through June 30, 2014, demilitarization waste received at a land disposal facility is subject to the fee described in Subsection (3)(b)(i), if:
- (A) the demilitarization waste contains an additional constituent that is not demilitarization waste and is required by rule to be treated before land disposal; and
- (B) the additional constituent meets every applicable state treatment standard required for land disposal of that constituent at the facility.
- (iii) A fee required under Subsection (3)(b)(i) shall be calculated by multiplying the tonnage of waste, computed to the first decimal place, received during the calendar month by \$14.
- (c) Through June 30, 2014, when hazardous waste or mixed waste is received at a facility for treatment or disposal and the fee required under Subsection (3) is paid for that treatment or disposal, any subsequent treatment or disposal of the waste is not subject to additional fees under Subsection (3).
- (d)
- (i) In accordance with Section 63J-1-504, on or before July 1, 2014, the department shall establish a fee schedule for the treatment and land disposal of hazardous waste and mixed waste.
- (ii) To create the fee schedule described in Subsection (3)(d)(i), the department shall, before establishing the fee schedule, complete a review of program costs and indirect costs of regulating hazardous waste and mixed waste in the state.
- (iii) The fee schedule described in Subsection (3)(d)(i) shall:
- (A) implement a flat fee not calculated according to the amount of waste treated or disposed;
- (B) provide for reasonable and timely oversight by the department; and
- (C) adequately meet the needs of industry and the department, including enabling the department to employ qualified personnel to appropriately oversee industry regulation.
- (iv) A facility that treats or disposes of hazardous waste or mixed waste is authorized to collect the fee established under Subsection (3)(d)(i) from the generator of the waste.
- (4)
- (a) Through June 30, 2014, remediation waste received at a hazardous waste land disposal or treatment facility from a remediation project is subject to a fee in the following amounts:
- | Amount of Remediation Waste Received from a Remediation Project | Fee Amount |
|---|------------------------------|
| More than 0, but less than 1,000 tons | \$28 per ton |
| Equal to or greater than 1,000 tons, but less than 12,500 tons | \$10 per ton for all waste |
| Equal to or greater than 12,500 tons, but less than 25,000 tons | \$5 per ton for all waste |
| Equal to or greater than 25,000 tons | \$2.50 per ton for all waste |
- (b) Through June 30, 2014, emission control dust/sludge from the primary production of steel in electric furnaces (K061, as defined in 40 C.F.R. Sec. 261.32) received at a hazardous waste land disposal or treatment facility is subject to a fee of \$5 per ton in lieu of the fee established in Subsection (3).
- (c) Through June 30, 2014, demilitarization waste received at a hazardous waste treatment, storage, or disposal facility is subject to a fee of \$5 per ton in addition to the fee established in Subsection (3).

- (d)
 - (i) Through June 30, 2014, the department may in accordance with this Subsection (4)(d) assess a person required to pay a fee under this section a special assessment if the department determines that the aggregate of the following fees is insufficient to cover the department's costs of administering its hazardous waste program:
 - (A) a fee imposed under this section; and
 - (B) a fee imposed under Section 19-6-118.5.
 - (ii) In determining the amount of a special assessment under this Subsection (4)(d), the department shall calculate the amount of the insufficiency and assess each person subject to the special assessment a proportion of the insufficiency equal to the proportion of fees paid by that person.
 - (iii) The department shall deposit a special assessment collected under this Subsection (4)(d) into the Environmental Quality Restricted Account created in Section 19-1-108.
 - (e) Through June 30, 2014, the department shall annually review the fee established in Subsection (4)(a) and make recommendations to the Legislature's Natural Resources, Agriculture, and Environment Interim Committee concerning the amount of the fee.
- (5)
- (a) Through June 30, 2014, the department shall allocate at least 10% of the fees received from a facility under this section to the county where the facility is located, not including a special assessment.
 - (b) Beginning on July 1, 2014, the department shall allocate and pay to a county at least 10% of the fee established under Subsection (3)(d)(i) that the department receives from a facility in that county.
 - (c) The county may use fees allocated under Subsection (5) to carry out its hazardous waste monitoring and response programs.
- (6) The department shall deposit the state portion of a fee received under this section into the Environmental Quality Restricted Account created in Section 19-1-108.
- (7)
- (a)
 - (i) Except as provided in Subsection (7)(a)(ii), the owner or operator shall pay a fee, accrued under this section before June 30, 2014, to the department on or before the 15th day of the month following the month in which the fee accrued.
 - (ii) If a fee accrues on remediation waste under this section before June 30, 2014, the fee shall be paid in accordance with a schedule determined by the department:
 - (A) made in consultation with the person paying the fee; and
 - (B) considering any contractual schedule for payment between the person paying the fee and another person with whom the person paying the fee has contracted.
 - (b) With the monthly fee described in Subsection (7)(a)(i), the owner or operator shall submit a completed form, as prescribed by the department, specifying information required by the department to verify the amount of waste received and the fee amount for which the owner or operator is liable.
 - (c) Beginning on July 1, 2014, an owner or operator shall submit payment of the fee established in Subsection (3)(d)(i) to the department:
 - (i) in accordance with a schedule provided by the department; and
 - (ii) using forms provided by the department.
- (8)
- (a) The department shall oversee and monitor hazardous waste treatment, disposal, and incineration facilities, including federal government facilities located within the state.

- (b) The department may determine facility oversight priorities.
- (9)
 - (a) The department, in preparing its budget for the governor and the Legislature, shall separately indicate the amount necessary to administer the hazardous waste program established by this part.
 - (b) The Legislature shall appropriate the costs of administering this program.
- (10) The Office of Legislative Fiscal Analyst shall monitor a fee collected under this part.
- (11) Mixed waste subject to a fee under this section is not subject to a fee under Section 19-3-106.

Amended by Chapter 201, 2013 General Session